

**Introduced by Senator Ackerman**

February 17, 2005

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An act to amend Sections 904.6 and 939 of the Penal Code, relating to grand juries.

LEGISLATIVE COUNSEL'S DIGEST

SB 416, as introduced, Ackerman. Grand juries.

Existing law authorizes the presiding judge of the superior court in any county or city and county to empanel an additional grand jury, as specified.

This bill would instead require the presiding judge or the judge appointed by the presiding judge to supervise the grand jury to empanel an additional grand jury upon the request of the Attorney General or the District Attorney.

By imposing additional burdens on local governments in connection with the grand jury, this bill would impose a state-mandated local program.

Existing law provides that no person, except for those who are authorized, may be present during the criminal sessions of the grand jury, as specified.

This bill would additionally authorize an investigating officer or the person designated by the Attorney General or the district attorney to assist in the presentation of the case to be present during the criminal sessions of the grand jury.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 904.6 of the Penal Code is amended to  
2 read:

3 904.6. (a) In any county or city and county, the presiding  
4 judge of the superior court ~~may, or the judge appointed by the~~  
5 *presiding judge to supervise the grand jury, shall, upon the*  
6 *request of the Attorney General or the district attorney,* order and  
7 direct the impanelment, ~~at any time,~~ of one additional grand jury  
8 pursuant to this section.

9 (b) The presiding judge *or the judge appointed by the*  
10 *presiding judge to supervise the grand jury* shall select persons,  
11 at random, from the list of trial jurors in civil and criminal cases  
12 and shall examine them to determine if they are competent to  
13 serve as grand jurors. When a sufficient number of competent  
14 persons have been selected, they shall constitute the additional  
15 grand jury.

16 (c) Any additional grand jury which is impaneled pursuant to  
17 this section may serve for a period of one year from the date of  
18 impanelment, but may be discharged at any time within the  
19 one-year period by order of the presiding judge. In no event shall  
20 more than one additional grand jury be impaneled pursuant to  
21 this section at the same time.

22 (d) Whenever an additional grand jury is impaneled pursuant  
23 to this section, it may inquire into any matters which are subject  
24 to grand jury inquiry and shall have the sole and exclusive  
25 jurisdiction to return indictments, except for any matters which  
26 the regular grand jury is inquiring into at the time of its  
27 impanelment.

28 (e) It is the intent of the Legislature that all persons qualified  
29 for jury service shall have an equal opportunity to be considered  
30 for service as criminal grand jurors in the county in which they  
31 reside, and that they have an obligation to serve, when  
32 summoned for that purpose. All persons selected for the  
33 additional criminal grand jury shall be selected at random from a

1 source or sources reasonably representative of a cross section of  
2 the population which is eligible for jury service in the county.

3 SEC. 2. Section 939 of the Penal Code is amended to read:

4 939. No person other than those specified in Article 3  
5 (commencing with Section 934), and in Sections 939.1, 939.11,  
6 and 939.21, *an investigating officer or other person designated*  
7 *by the Attorney General or the district attorney to assist in the*  
8 *prosecution of the case*, and the officer having custody of a  
9 prisoner witness while the prisoner is testifying, is permitted to  
10 be present during the criminal sessions of the grand jury except  
11 the members and witnesses actually under examination.  
12 Members of the grand jury who have been excused pursuant to  
13 Section 939.5 shall not be present during any part of these  
14 proceedings. No persons other than grand jurors shall be  
15 permitted to be present during the expression of the opinions of  
16 the grand jurors, or the giving of their votes, on any criminal or  
17 civil matter before them.

18 SEC. 3. If the Commission on State Mandates determines that  
19 this act contains costs mandated by the state, reimbursement to  
20 local agencies and school districts for those costs shall be made  
21 pursuant to Part 7 (commencing with Section 17500) of Division  
22 4 of Title 2 of the Government Code.